

October 27, 2008

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OCTOBER 27, 2008

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KATHLEEN LOCEY
FRANCIS BEDETTI, JR.
PAT TORPEY
JAMES DITTBRENNER

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR_MEETING

MR. KANE: I'd like to call to order the October 27,
2008 meeting of New Windsor Zoning Board.

PRELIMINARY_MEETINGS:

DIANE_&_NEAL_PALMER_(08-32)

MR. KANE: Tonight's first preliminary meeting is Diane and Neal Palmer request for 8.8 foot side yard setback for existing shed and an 8.5 foot side yard setback for detached existing shed and carport at 73 Beaver Brook Road in an R-4 zone. Come on up. What we do in New Windsor is we hold two meetings, one's a preliminary meeting so we can get a general idea of what you want to do and you can get a general idea of what we need so we can make a decision. By law, everything has to be decided at a public hearing. So there's a second hearing so you'll pretty much go through the same thing in a public hearing as you're going to go through tonight. I'm just going to ask you to speak up so that young lady over there can hear you.

Mr. and Mrs. Neal Palmer appeared before the board for this proposal.

MRS. PALMER: Diane Palmer, 73 Beaver Brook Road, New Windsor, New York to obtain a variance for two sheds that we have.

MR. KANE: How long have the sheds, let's start with the first, how long the existing shed been in existence?

MR. PALMER: Twenty years.

MR. KANE: Any water hazards created from the sheds? Cut down any substantial vegetation or trees?

MR. PALMER: No.

MR. KANE: Have there been any complaints formally or informally about the shed?

MR. PALMER: Not at all, no.

MR. KANE: Same thing with the other shed and carport, how long have they been up?

MR. PALMER: It's been there 18 years.

MR. KANE: No runoff, water runoff, water hazards?

MR. PALMER: No complaints.

MR. KANE: No complaints formally or informally?

MR. PALMER: No.

MR. KANE: Any easements running through where either shed or the carport are?

MR. PALMER: No, no easements.

MR. KANE: I'm looking at this shed and that basically it will be almost impossible to move it.

MR. PALMER: If we move them, they'll break.

MR. KANE: Can either of them be seen from the road?

MR. PALMER: Maybe partially a couple feet.

MRS. PALMER: Partially cause our driveway goes up on an incline and kind of cuts it out and the trees are growing over it.

MR. KANE: Any questions, guys? Anything further?

MS. LOCEY: I have no questions.

MR. KANE: Accept a motion.

MS. LOCEY: I will offer a motion to schedule a public

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hearing on the application of Diane and Neil Palmer as detailed on the agenda of the October 27, 2008 Zoning Board of Appeals meeting.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE.

MS. MASON: This tells you what to do next.

MR. KANE: Have a good evening.

ROBERT_GELLMAN_(08-33)

MR. KANE: Next public hearing is Robert Gellman request for existing 12 x 14 deck at 21 Hillview Drive in an R-4 zone.

Mr. Robert Gellman appeared before the board for this proposal.

MR. KANE: Same thing you want to tell us what you want to do. First state your name for the young lady over there.

MR. GELLMAN: Robert Gellman, 21 Hillview Road, New Windsor. Actually, there are two things that were on there, one was the back deck which is an existing deck, it's been there since '94 and no complaints, it's in the back of the yard.

MR. KANE: No easements running there where the rear deck is?

MR. GELLMAN: Nothing.

MR. KANE: Didn't create any water hazards or runoffs in the building of it?

MR. GELLMAN: No.

MR. KANE: Did you say there was something else?

MR. GELLMAN: Yeah, there was also a front porch and that's actually been on the house since I bought it.

MR. KANE: Do we have two denials here?

MS. MASON: Yes, there should be one for 29 and one for 31 feet.

MR. KANE: Right, got 'em. So we need to correct that

for the public notice to make sure that that's included because on the listing we have here we just have 31 foot rear yard setback for existing 12 x 14 deck.

MR. BABCOCK: On the agenda?

MR. KANE: Yes.

MR. BABCOCK: Yes, Myra will take care of that.

MR. KANE: And the other deck's 7 x 15 foot covered front porch?

MR. GELLMAN: Yes.

MR. KANE: How long has that been in existence?

MR. GELLMAN: Since I moved in back in '83.

MR. KANE: Before your time?

MR. GELLMAN: Yes.

MR. KANE: To your knowledge, any complaints--

MR. GELLMAN: Not at all.

MR. KANE: --formal or informal. Does the porch itself extend any further, closer to the road than any other homes in your neighborhood?

MR. GELLMAN: No, I think when it was built at the time the road was a private road and I don't know if the same setbacks were in effect.

MR. KANE: And it's been the same porch that whole time?

MR. GELLMAN: That whole time.

MR. KANE: I have nothing further. Anything further, guys?

MR. TORPEY: No.

MR. KANE: I'll accept a motion.

MR. DITTBRENNER: I'll move that we forward the application of Robert Gellman for a front yard setback, rear yard setback variances to be scheduled for a public hearing.

MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

DENNIS_SORICELLI_(08-34)

MR. KANE: Next is Dennis Soricelli request for 17 foot rear yard setback for proposed attached 12 x 20 foot rear deck at 511 Balmoral Circle in an R-4 zone.

MR. SORICELLI: Yes, Dennis Soricelli, 511 Balmoral Circle, New Windsor.

MR. KANE: Tell us what you want to do.

MR. SORICELLI: Well, I have a patio in the back, I want to put a deck over it coming out of the kitchen 12 x 20.

MR. KANE: Going to be creating water hazards or runoffs in the building of the deck?

MR. SORICELLI: No.

MR. KANE: I have to ask the questions although it's obvious, cutting down any trees or substantial vegetation in the building of the deck?

MR. SORICELLI: There's nothing back there. Actually, I took three trees out.

MR. KANE: Still have to ask. Any easements in that area?

MR. SORICELLI: Not that I know of. I'm on a circle, I don't think so.

MR. KANE: Doesn't seem so we'll just doublecheck for the public hearing. And 12 x 20 deck is similar in size and nature to other decks that are in your particular neighborhood?

MR. SORICELLI: Yes.

MR. KANE: How far off the ground is the deck going to come?

MR. SORICELLI: Twelve feet, 15 feet.

MR. KANE: Is it going to come off up here?

MR. SORICELLI: Yeah, going to go right here like all the rest of the decks.

MR. KANE: So about where the double windows are?

MR. SORICELLI: Come right off the building.

MR. KANE: You're going to put glass sliders there?

MR. SORICELLI: Yes, those windows will come out.

MR. KANE: Any further questions from the board?

MS. LOCEY: Where are you proposing to put the deck?

MR. KANE: That's where the sliders are going to be.

MRS. SORICELLI: I'm his wife, it's 9 feet.

MR. KANE: Nine foot above ground guys, the boss says so. Any further questions? I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a public hearing for the request by Dennis Soricelli for 17 foot rear yard setback for a proposed 12 x 20 rear deck at 511 Balmoral Circle.

MR. DITTBRENNER: I'll second that.

ROLL CALL

MR. DITTBRENNER AYE

MR. BEDETTI AYE

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MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

GLODE_NEON_SIGNS_(FOR_NEW_WINDSOR_REALTY_GROUP)_(08-35)

MR. KANE: Nex preliminary meeting is Glode Signs for New Windsor Realty Group LLC request for 126 square foot for a freestanding sign and 20 foot width for a wall signs at 145 Windsor Highway. Hi, just want to speak loud enough for this young lady to hear you?

MRS. FORREST: I'm Nancy Forrest, I'm with Glode Signs.

MR. KANE: Tell us exactly what you want to do.

MS. FORREST: Okay, there are two I believe before you, one you have in front of you is for Ivana's Cucina and your sign ordinance I'm not looking for an area variance on that one as far as the square footage goes, you allow 2 1/2 feet tall by 10 foot long, given the construction of the building the sign is only 18 inches tall to leave a border top and bottom you can see where they are located but it's 13 1/2 feet long. So it's under the square footage but 3 1/2 feet longer in length.

MR. KANE: So we still need to do that right, Mike, on the length or does the square footage count?

MR. BABCOCK: Yeah, we do not calculate by square footage, we go by the width, that's it.

MR. KANE: So we're going to look for a 3 foot, 3 1/2 foot length variance?

MS. FORREST: Yes, I submitted photos, they're individually lit neon channel letters with just the name mounted.

MR. KANE: Steady illumination, nothing flashing?

MS. FORREST: Nothing flashing, nothing moving. And that drawing that these are black faced during the day

and there's an evening shot in there but at night the letters light just white.

MR. KANE: Okay, now, are we just doing the one wall sign for Ivana's Cucino or are we doing for each section?

MS. FORREST: No, we're just doing the one wall sign for Ivana's and the freestanding sign for the entire center.

MR. KANE: We're going to need to change.

MR. DITTBRENNER: Would it make sense to include all or is this going to be a separate issue for all 14 suites?

MS. FORREST: Yeah, we had discussed that, I talked to you, Myra, about that and I was told from I think Jessica or Jennifer that I would need to apply for the actual permits first for denial and then I would be able to put all of those on one.

MS. MASON: You would need approval from the owner.

MR. TORPEY: Every single sign needs a permit.

MS. FORREST: No, I can lump the other 13 onto one.

MS. MASON: If each sign is going to need a variance and if you know which size they're all going to be might as well do them all at once.

MR. TORPEY: Wouldn't they stay all uniform across the front?

MS. FORREST: Well, they're individual letters so a longer name might be a little bit longer, if I do that, I'm probably going to keep it at 15 foot but some of the ones down in back are a little bit lower so--

MS. MASON: You may have to go individually if it's going to be so long.

MR. KANE: There's no way we can do a blanket.

MS. FORREST: If I come back to you with 13 on it I'll just have just one length not to exceed 15 feet.

MR. KANE: That would be better.

MS. FORREST: I won't do each one differently.

MR. KANE: That will be totally separate.

MS. FORREST: Right, so it would always stay no more than 15 feet but only 18 inches in height so they'll all remain consistent in height and no more than 15, some, I mean, they might have one word and it might only end up being 8 feet.

MR. KANE: We're just going to take the one tonight and the freestanding sign and that will be a separate hearing totally.

MS. MASON: Just know that I need the proxy from the owner of the property.

MS. FORREST: Yes, I have already discussed it with him and the fees and all involved.

MR. KANE: So this one we want to change, we don't need square footage request that's a freestanding sign, 20 foot width and it's 13, you only need 3 1/2 feet so we're going to change that 20 foot width to 3 1/2 feet, correct?

MR. BABCOCK: Well, I'm not, I don't understand why we're saying it's 30 feet long based on her permit application it's 1 1/2 foot high by 30 feet long.

MS. FORREST: That says 30 foot, it should 13.5.

MS. LOCEY: Yeah, it does say 30.

MR. BABCOCK: It's all 30 feet.

MS. FORREST: No, because the store opening front is only, is not that--

MR. KANE: I have 13 and 11 and 18.

MS. FORREST: That's correct, the drawing that you have.

MS. MASON: This one here says 30.

MR. KANE: That's 18 x 30 foot.

MS. LOCEY: This one is incorrect.

MS. FORREST: That's not my writing.

MS. MASON: They figured it squared off, is that what they do, Mike?

MS. FORREST: Squared off, that's squared off.

MR. KANE: Because they squared off where the letters are and the total length of the area's 18 foot.

MS. FORREST: This might have been a copy that may be based on it, they tried to scale but no, it's the 13 foot.

MR. KANE: You'll want to be sure for the public hearing.

MS. FORREST: No, I'm positive it is.

MR. BABCOCK: Well, the discussion before this was 15

feet so is it 13 or 15?

MS. FORREST: It's 13.

MR. KANE: Only one sign tonight and that's 13 feet, 13 feet 11 inches.

MR. DITTBRENNER: The lettering, the sign is 18 feet wide so--

MR. KANE: Mike, on this you count that whole thing or just where the lettering goes in?

MR. BABCOCK: No, if the whole thing is part of the sign.

MR. KANE: She's going to need an 8 foot variance.

MR. BABCOCK: Yes.

MS. FORREST: No, I'm sorry, I know where you're getting confused, you're looking at that.

MR. BABCOCK: I'm not confused, I'm using your paperwork.

MS. FORREST: I have the background is showing you, look at your drawing at the bottom that's 18 foot, that's the actual front of the building, okay, that's not a sign.

MR. KANE: It's not a removable piece?

MS. FORREST: No, that's the building, just the letters are individual on that so that's an 18 foot stretch, my sign takes up 13 foot.

MR. DITTBRENNER: So these are channel block letters not a complete sign?

MS. FORREST: No, it's not, that's just showing the face on the building.

MR. KANE: So we're looking at not 13 feet but 13' 11" which means she needs a 3' 11" variance.

MS. FORREST: Yes.

MR. KANE: For one wall sign instead of 20.

MS. FORREST: This ivory is the whole thing there.

MR. KANE: I got it.

MS. FORREST: Okay.

MS. MASON: Maybe she should do the whole building in one.

MS. FORREST: As long as this does not hold this--

MR. DITTBRENNER: You have a maximum footprint that each one of the store fronts can be, you might want to do it that way.

MS. FORREST: If I could do it tonight I'd be thrilled.

MR. KANE: I don't think that's an issue that you will be able to change, we need to have all the facts in the paper ten days prior to the public hearing, so why not if you can put it altogether in one shot I think it's a better way for all.

MS. FORREST: If you'll accept that, fine.

MS. MASON: You can come in and we'll work it out.

MS. FORREST: Absolutely, thank you.

MR. KANE: Saves you some money but I think that's a

better way to do it, just take it all in one shot, no, these, this is a preliminary, we can set her up, we have discussed it, there's nothing here to do, we're just going to need the numbers, the actual numbers for each sign going out to put into the public notice that has to be.

MS. MASON: Okay.

MR. BABCOCK: There's going to be seven signs on the front of this building?

MS. FORREST: Yes and I--

MR. BABCOCK: So you're going to ask for a variance for all seen signs and the freestanding?

MS. FORREST: And the freestanding. What about the--

MR. DITTBRENNER: All 14 signs, there's 14 suits, seven up, seven down.

MR. BABCOCK: Okay.

MR. KANE: Let's handle it all in one shot, that's the best way to do it.

MS. FORREST: Thank you.

MR. KANE: And honestly at that point any delay in the thing will be on you, so we'll need to have everything ready and posted ten days prior to the public hearing.

MS. FORREST: Very good.

MR. KANE: Any further questions from the board? We handled the flashing illumination, they're channel.

MR. BABCOCK: Now the freestanding.

MR. KANE: We have to talk about the freestanding, all right, so that's that. On the freestanding sign your request for 126 square feet for a freestanding sign.

MR. BABCOCK: And that's correct, the freestanding sign's do go by square footage.

MS. FORREST: Yes, and the actual sign between the poles is 64 square feet you call calculate the pillars as part of your sign and what we have done is tried to have it match the building, if you look at the building picture in that one so really the actual sign that lights is 64 square feet.

MR. KANE: On the freestanding sign the Windsor Commons is there any intent later to put signage underneath this?

MS. FORREST: No, if you look, this is a little hard.

MR. KANE: You have panels?

MS. FORREST: Yes, we have panels, there will be panels set for 14 right up front and there's only 14 suites.

MR. KANE: This is a better picture, you can tell almost looked like it was empty on the other one.

MS. LOCEY: And the location of the freestanding sign it does not impede the traffic vision?

MS. FORREST: No.

MR. KANE: There is a good picture for the public hearing, could you get a picture coming north and south on 32 showing that entrance where that freestanding is going to be?

MS. FORREST: Sure. I have already spoken to the fire inspector who viewed the site and it's been cleared

because of the fire hydrant to make sure we were far enough away from that as well and he called me and cleared that for me.

MR. KANE: Any illumination on the freestanding sign?

MS. FORREST: Internally illuminated, non-flashing.

MR. KANE: Any further questions from the board?

MR. BABCOCK: Mr. Chairman, we're going to have to add one variance to the freestanding sign, it's 16 foot 9 inches high according to this paperwork, it's only allowed to be 15 feet, my guys must of missed that but we'll include it for the public hearing.

MS. FORREST: We calculated the height based on the slope coming down from the highway, it does go down off the driveway so the foot and 9 inches is important.

MR. KANE: Okay.

MS. FORREST: And I will bring better pictures of that.

MR. KANE: So we'll add that in for the freestanding sign and what was that 1.9, Mike?

MR. BABCOCK: That's correct, 1 foot 9 inches.

MR. KANE: I think we got it. Any further questions? If not, I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of Glode Neon Signs for one freestanding sign and 14 wall signs all at 145 Windsor Highway in a C zone.

MR. TORPEY: Second that.

ROLL CALL

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MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

ROGER_ARNOLD_(08-36)

MR. KANE: Next is Roger Arnold request for interpretation and/or use variance for a house with second kitchen all at 13 Marotta Drive in an R-3 zone.

Mr. Kenneth Lytle from CMX appeared before the board for this proposal.

MR. LYTLE: Ken Lytle representing the Arnolds. What they're going for they have an existing residence. Back in 1987, they went for an addition to it. At that point there they assumed and thought it was actually approved as a two family, the property cards have all be updated in the assessor's office to reflect a two family, the property classification has changed from a 210 to a 220 classification as a two family. When they recently went in for an addition it was actually brought to his attention that it wasn't an approved legal two family, that's why we're here tonight.

MR. KANE: Are you allowed a two family in that zone, Mike?

MR. BABCOCK: Yes, the issue is the lot area.

MR. KANE: So you're really not going to go for an interpretation or try for the use.

MR. LYTLE: The use itself.

MR. BABCOCK: It's really not a use variance, they built the house as a single family house and then have converted it to a two family at sometime and a two family is allowed in that zone except they only have 51,000 square foot lot, they need 120,000 square foot lot to have the two family. It's okay to have the two family, the lot size has to be bigger, so they need an area variances for lot area, lot width and side yard.

MR. KANE: There's no interpretation and no use variance, it's an area variance?

MR. BABCOCK: That's correct.

MR. KANE: So you have an area requested of 68,164 square feet and 9 foot minimum lot width and a 6 foot required side yard?

MR. BABCOCK: That's correct.

MR. KANE: Is that house similar in size and nature to other homes that are in your neighborhood?

MR. LYTLE: Yes.

MR. KANE: Any complaints formally or informally?

MR. LYTLE: It's been established for 20 years as it is.

MR. KANE: It's been in use 20 years as it is?

MR. LYTLE: Yes, they have been taxed on it as a two family for 20 years.

MR. KANE: Has it had separate gas and electric meters in the home over this time?

MR. LYTLE: Yes.

MR. KANE: All right, for the public hearing if we can provide some, maybe some old bills, a little history showing that down the line that would be good.

MR. LYTLE: Okay.

MR. KANE: What I'm trying to do there is just show a history that it's been used like that for 20 years. Any further questions from the board?

MS. LOCEY: I don't know what this sheet is that says owner of premises Tracy and Patricia Decker.

MR. BABCOCK: That could have been, that's the original owner, that's the original owner.

MS. LOCEY: And did the Decker family put on the addition or the Arnold family?

MR. LYTLE: The Decker family.

MS. LOCEY: So the Arnold family bought it?

MRS. ARNOLD: I was married to a Decker.

MR. LYTLE: Same wife.

MR. KANE: Any further questions? I'll accept a motion.

MR. DITTBRENNER: I move that we forward the application of Roger Arnold for a public hearing as it relates to an area variance specifically for minimum lot width and side yard setback and minimum lot area.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PUBLIC_HEARINGS:

ED_BIAGINI_(08-13)

MR. KANE: Public hearing, tonight's first public hearing is Ed Biagini request for following variances, proposed 3 lot subdivision gross minimum lot area lot 1, 50,271 square feet, lot 2, 32,230 square feet, lot number 3, 40,713 square foot and the rest as noted on the agenda. We'll be passing around a form, please just put down your name and address on it so we have it for the stenographer please, we'll be opening up the public portion of the hearing later on, I'll let you know then everybody will have a chance to speak. Please try not to be repetitive and respectful of others. Okay? Thank you. You're on.

MR. REINEKE: Hi, for the record, my name is Steve Renieke, I'm the attorney for the applicant and while the engineer is introducing, I'd just like to pass out basically a tax map sheet with the size of the properties and the square footage based on the tax records of the areas built on those properties. Now the board and I'm sure most of the audience I'm positive also will recall that this property was the subject of a public hearing back in the spring. At that time, we had presented information showing that the proposed lots would have exceeded significantly all of the requirements for the subdivision that this property was part of and that currently, as proposed, the lots are essentially significantly larger than 18 of the 24 other lots in the subdivision. Our largest lot is larger than any lot in the subdivision and the medium sized lot is bigger than all but one of the other lots in the subdivision. At the time of the public hearing, there were questions raised by the public concerning ground water conditions, whether or not septic would work and a general concern that those items were significant at that point in time information had not been taken on the property, it was

just in basically on the lot size variance, the board then closed the hearing and acted upon the information before it at that point. Since that time, perc tests have been taken on the property, deep test holes, one well has been drilled and the engineer with us this evening is going to explain the results of those tests which I know were a major concern at the time of the first public hearing. So, if you would just point out where the tests were taken.

MR. FOTI: The well that was drilled was drilled on lot number 1, that well was drilled at a depth of 450 feet and we got a yield of 5 gallons per minute. Soil testing was conducted on all three lots for each of the residences between June and August of this 2008, percs range from 15 to 28 minutes per inch which is relatively fast for the area and the soils were of adequate depth, the water table, rock and impervious layer.

MR. REINEKE: Maybe you can just give the outline where a water table was discovered because I know water and water table was a concern that was raised.

MR. FOTI: Well, there was no water, three septic are here, here and here, there was no water discovered in the deep hole tests and the proposed, the existing well on lot number 1 now was at a depth of 450 feet.

MR. REINEKE: And the deep tests went down to what depth?

MR. FOTI: They ranged from 4 foot to 6 foot.

MR. REINEKE: Now, at one point when this matter was brought back to the zoning board to request reconsideration, there was correspondence received by the zoning board that indicated there was disturbance and/or discharge water onto the wetlands, regulated wetlands, is there anything on the map or based upon

the engineering studies conducted by your firm indicating any wetlands or any discharge of water onto wetlands?

MR. FOTI: No, there are no standard Federal wetlands on site, our property's now draining to the catch basins installed by the applicant. It drains from the northwestern corner down to the southeastern corner.

MR. REINEKE: And the discharge from that?

MR. FOTI: Is going to the existing where the water naturally drains so we're not changing, altering any drainage patterns or discharging to any wetlands.

MR. REINEKE: Okay, and did you discover any surface water standing in the area from the engineering review?

MR. FOTI: No, there's no standing surface water.

MR. REINEKE: I believe we have tried to address those items, the information is all certified by the engineers. Also, as I say, that handout that I gave you is from the, it's the tax map for this section and the information on the lot sizes and the size of the homes on those properties is what's reflected on the tax rolls in the town and as you can see from that the lot sizes range from, well, most of them are right around 20,000 square feet, a vast majority few hundred square feet more, maybe 200 square feet less, there are four corner lots that are somewhat larger, 37,000 to 40,000, 42,000, and then back in the top right corner and those two end lots at the other side are also larger than the 20,000 average but as you can see what's proposed for our subdivision is just under 30,000, just under 40,000 and 47,7 and the larger parcel. We have also indicated on that that on the lot which immediately adjoins tax lot 1-3 that would be the, what's that first lot down there that one?

MR. FOTI: Lot number 1.

MR. REINEKE: That will be lot number 1 on what we're proposing that's the lot that's 29,729 square feet that has the well on it and building partially constructed, that structure will be a 2,200 square foot home and we would anticipate that the homes on the other lots would be ranging from 1,900 to 2,300 square feet. Those size homes are probably a little bit larger than most of the homes that are in there but generally in keeping with that neighborhood, so we would be creating three lots that while slightly larger than most would be similar in size to the six or so large lots in the subdivision and the homes would be of similar size and structure. I guess at this point we're concluding our presentation, we felt that information which was not available to the board at or the public was certainly relevant and we're happy to answer any questions that either the board or public have on it.

MR. KANE: We're going to go right to the public and let's hear what they have to say. On the public portion of the meeting, please as you speak state your name and address, speak loud enough so the stenographer can hear you. Do you have any questions, comments? Ma'am?

MRS. AMENDOLAGINE: Patricia Amendolagine and I live right next door to lot number 1. Mr. Reineke again keeps stating the history of this lot and in 1973 lot number 1 was declared an unbuildable lot. I don't know what's changed on that lot since that time but the planning board back in 1973 declared it unbuildable. Mr. Vincent Biagini sold that land to Mr. Al Foster, Mr. Al Foster kept his horses on it and he let the property fall to a tax sale where the present Mr. Biagini has now chosen to purchase it. He knows the history of the property and know he wants to place three homes on this piece. The topography of the neighborhood of the area has deemed four lots to be

larger than the rest of the area. And if we were going to go back to 1973 the codes and what the zoning requirements were at the time I think if Mr. Vincent Biagini could have built three lots there he would have done it at that time. I also want to point out to the board that the applicant obtained a building permit for lot number 1 for the proper setbacks, he was basically building one single family home on 2.68 acres. Once he obtained that building permit and misrepresented those facts to our town he ignored his building permit and that basically, you know, he was supposed to abide by the ordinances and he placed his foundation exactly where he wanted it so that he could go, he would get his violation, he would go before the planning board and basically have to come here to your zoning board in order to get his area variances. Your applicant he has created his own difficulties and they have all have been created by him. New Windsor Town Law Article 14, Section 386 states that you cannot obtain a building permit until subdivision has received final subdivision approval from the planning board which would have reviewed all the drainage issues on that lot prior to a foundation being placed anywhere on that property. Instead, the applicant chose his own course of action and instead of doing things according to the town zoning law, he applied for the building permit for a single family home which was going to be properly placed 40 feet from my property line and he was going to meet all the requirements. Then once he obtained that building permit and acknowledged that he would abide by the zoning and building ordinances he decided to do whatever he wanted to do. To me it was obvious that his intention, his intention all along was to build this three lot subdivision and certainly not to put one single family residence on a 2.68 acre lot. I also want the board to note that his septic tank location has changed from the original application where on the application he placed his tank being that the house was 40 feet off the property line his tank was within that 40 feet side yard. It can't be there

any longer because he's 10 feet from the property line or 20 feet from the property line, I'm sorry. But that brings his septic field, his leach fields that much further down into the rear yard and there's the creek bed there and the little brook feeds the Moodna Creek. Now you're going to have three separate septic fields all by his drainage chart right there that he showed you all draining into two 24 inch drainage pipes which drain right into the back of my property and when it's wet we have a wonderful water feature now, you can hear the water draining through those pipes and it's a significant amount of water. I have no doubt in my mind that when he did his deep tests after he put in all of his drainage that he wouldn't have water, he wouldn't be going down 6 feet, he wouldn't have it, he's put in all the drainage but it's all draining into the rear of lot 1 into the little brook and those leach fields have to drain somewhere, we all know that leach fields they drain somewhere and they're all going to drain and feed into the little brook.

MR. KANE: Anybody else? Sir?

MR. GRELLA: Donato Grella, 18 Little Brook Court. On the engineering report of standing water, early or after the pond was filled in and the topo was altered at a higher level I called the town, they told me to call the town engineer, Mr. McGoey, Mr. McGoey sent an engineer out to the northwest side, we're adjacent to lot number 3, you don't have standing water on the lot because it's all standing on my property, it's not draining in. The engineer, Mr. McGoey, said that the owner would dump some stone and that would raise the level up and the drainage would occur. August is not known as a rainy month so you're going to have dry ground but after the rains of the September and now in October standing water still exists on the northwest side on lot number 3. It's not draining off into the drain pipe now. I thought it was going to be a simple fix, Mr. McGoey assured me that the stone would take

care of this and resolve it and I don't think it has. As to filling in the pond and not altering the elevation, not so, the elevation to my calculation, I'm not a civil engineer, is at least four to six to eight inches above the original topo that was there before and that creates more ground water adjacent to lot number 3 which is 18 Little Brook Court so I'd like you to reconsider when you look at standing water, the time of the year, the brook doesn't run in August, it does run September, October, November, March, April, May. Thank you.

MR. KANE: Sir?

MR. HENAULT: Yeah, I'm Paul Henault, I live on 314 Toleman Road which is downstream from the subdivision. I just found out recently that they were messing with this property and like I said, I'm downstream from it. For over a year now I was always confused why I was getting mud runoff onto my property and debris. Now I know why and I'm here because I just don't understand how this could happen to my property when I'm downstream and just illustrates other problems that may occur downstream that may be overlooked. I don't understand why I need to deal with all this mud and debris on my property from him filling in the pond. And the other concern I have again is as mentioned is any kind of runoff from septic is a concern of mine as well because the pond runs right next to my house, runs into a pond next to my house and I'm afraid and from there it goes to the Moodna so I'm afraid again that what it's going to do to my property and I'm not even there, I'm downstream and what other properties downstream are going to be affected. That's it.

MR. KANE: Next? Anybody else? Sir?

MR. DURSO: Hello, good evening, my name is John Durso and could I start with a question? Okay, sir, you said when the well was dug it yielded 5 gallons per minute.

How is that tested? A pump is put down in the well?

MR. FOTI: Yeah, we've got a well log from the well driller certified.

MR. DURSO: The reason I'm asking is when the well was being built I just came home from a business trip, the rig was there, I was home for the next 2 days consecutively, I didn't hear any generators running, there is no electricity down there so I don't know how a well pump could run.

MR. FOTI: They do that, at that time--

MR. DURSO: So I don't know how a well pump 220 volts 3 phase could have been used when there isn't electricity at that site and I did not hear any gas generators going so I just fortunately was there the next couple days working from home and I didn't hear any gas engines running but that's not what I brought. The first meeting, first public meeting I had mentioned that there was a pond on the property and you didn't even know about it, you even asked to see the map, I don't know if you recall they showed you where it was. What I have here is photos of the pond what it used to look like and what it looks like, what it looked like approximately four years ago and approximately one to two years ago, these are satellite images so they are very clear. I'd just like to, this is not going to work very well but I have handouts here and I'm not going to go through every photo, it takes it all the way to the Moodna and that's just going to bore you, just the ones that are relevant. This is from Google Maps, this is approximately four years ago, how we can tell that is I don't have a pool and I was between pools on my property about four years ago. That oval you see is a dirt track that the Amendolagine's son used to ride his dirt bike on so you can clearly see that pointing out the sides of the pond, Rita Davita's house could be dropped in and still have space in

there, that's what it used to look like before any work was done on the property whatsoever. That's just a closer picture of it. I do not have a pool so I know roughly the timeline of this, when this was done. That's just a further away shot. What this is showing is coming from behind the Amendolagine's property, here's where the little brook is, little brook goes through the trees and crosses Toleman Road right here and goes to that gentleman's property. Here's his house right here and here's his pond, now the better newer photos are coming up next, this is from MSN Maps, the reason I'm saying this is all verifiable, anybody can go on their computer and pull these up. That's just a far away shot of the entire area. This is a reverse photo of like I said this is roughly one to two years ago, now here's the land has already been altered, here's a piece of equipment and you can see the bucket is dragging the ground, here's silt fencing up around the pond and it's already been shrunken by dirt being brought in. The last meeting, the non-public meeting it was said that two truckloads of dirt was brought in to fill this pond and I don't think two truckloads are going to fill this thing. So this is like I side a reverse shot, the stream is back here. So here's the stream that cuts through behind Amendolagine's property. Now the pipes are underground feeding that stream and that foundation is right about here. And then it just goes through a series of showing you how the stream goes through the woods, this is it right here and then crosses Toleman Road, actually a bridge right on Toleman, it goes under that bridge, makes a curve, winds up right here, there's the other pond that this gentleman was mentioning five minutes ago so that little pond that we're, that pond by our property feeds his and the water just flows from here and it just continues through. And like I said, it cuts through right here, right here again and eventually makes its way, you can follow it all the way into Washingtonville all the way to the Moodna. It crosses the railroad tracks, winds up by these people's

property, right in through here and it just keeps on going to this large artery that's right here, this is right after the curve on Toleman Road, this curve on Toleman Road this large pond is right here and it comes off this artery, you can see how large this is and just continues off of it this way and continues right on into Washingtonville. And like I said, the rest of the photos I can take you there, I'm not going to waste your time showing those photos over and over again but the main ones at this point of these photos to show the size of that pond, what it originally was, how large it actually was, it wasn't little and the main thing about the pond was it was never out of water all the years the horses lived there that pond that size was always full, so it's not like it was seasonal, it was always there, was always water in that pond. As a matter of fact, Al Foster, his home was right here, right where that says traffic his house was right up in this property right here, he used to run a hose out of the pond with a pump up to his property running an electrical cord across the ground from his property to water whatever at his house, he used to have chickens and whatever on his property and he used to run water from that pond to his house, I don't know if he was connected to the house but used to pump it up to his property. So like I said, these are the older photos and this is after it started to get altered and that's all we really wanted to show you what the land used to look like, we've lived there, we know what it looked like, you don't, we just wanted to show you the difference between then and now and all this water has to be going someplace. So obviously it's going through the culverts, pipes now into little brook so because now they're underground here and this goes on through so that's what I wanted to show the board and I appreciate your time. Thank you very much.

MR. KANE: Thank you. Anybody else? Sir?

MR. COUGHLIN: John Coughlin, I live at 4 Toleman Road.

This is the first meeting I've attended related to this issue because it's around the corner from me and down the corner but as it happens I work from home because if there's any truth to what this gentleman said with regards to dump trucks bringing in dirt, two loads, two dump trucks full, I'm assuming he means two an hour for about eight to ten days because there were dump trucks going up and down Toleman Road at least four times a day six times a day over an eight day period and these were very large dump trucks, these were not, so the whole dirt issue if that's relevant I can tell you since I'm home all day long that it was more than two dump trucks full of dirt. The other thing that this project has been going on for over a year now, two years I can say that the foundation for that one house that's close to the foundation that's in place, man, that thing went up so fast, I fully do believe what this lady said about this guy had no intentions of following a 2.6 acre variance, he fully well intended to build more than one house on this property, he fully well intended to come back to the planning board and just disregard anything that was originally said, that foundation went in maybe a week tops, they were out there putting blocks in as fast as they can be delivered so whatever relevance that has to your decision going forward whether you allow this builder to stick his nose up at you and request additional zoning variance for two more houses on the property. I just want to contribute that again it doesn't directly affect me, it's around the corner from me but I thought it was important to bring that information to the Planning Board's attention.

MR. KANE: And I thank you. Next? Ma'am? Miss?

MS. SIEGEL: Jocelyn Siegel, 14 Little Brook Court. I just want to second what John says, I also work from home, it was not two dump trucks of dirt, it was two dump trucks an hour for eight to ten days full of dirt and rocks and other assorted whatever I guess you could

find pretty much that filled that pond in. They have been working on it for a very long time, they did fill it in for a very long time and it's been sitting for a very long time as to the foundation, that's been sitting a long time but it did get built in about a week, it was there very quickly, they did very quickly move gravel to what I assumed was a driveway at the time and they pretty much stopped when they stopped and when we got the first hearing to come to the first variance hearing I did go walk down there to look at this property and the septic, the stake for that property is directly next to the open water source, the water is coming out of the pipe where they said they put the pipe and directly next to it is the stake marked septic, that's pretty gross. So everything everybody has told you here is true. I do work from home, I do know exactly how many trucks, not exactly but there were definitely more than two just like John said so this is exactly what's been going on and I think you can see we're all here again, we're all really concerned about this issue, we don't want it to go away and we definitely don't want it to get slid under the rug like it seems to be trying to be done. That's why we keep showing up and we keep having something to say so definitely that's about it. But I just thought I would say we're all here again, you know, so we're definitely concerned.

MR. KANE: Thank you. Next? Anybody else? It's your one chance to speak. Okay, we'll close the public portion of the meeting and Myra, I just want to note that we did get a letter from Jacobowitz & Gubits, counselors at law and they were representing, I'm going to, I'm sorry, your last name Amendolagine, and we're going to add that into the record. Attached to it is a copy of the letter that was sent on May 12 so that will be added in. And at this point I will ask Myra how many mailings we had.

MS. MASON: On the 14th day of October, I mailed out 33

addressed envelopes and had no response.

MR. KANE: Okay, we have some things I think you need to address.

MR. REINEKE: Okay, well, I have a couple of quick ones to address right away. First of all, this property was never declared unbuildable by the planning board. Historically and I have a copy of the approved map here filed with the clerk's office which I'll leave for the zoning board files this property was originally proposed, the portion we're talking about was proposed as parkland open space not unbuildable. When the map was finalized, the Town Board elected apparently to take money in lieu of land so they accepted parkland fees and that's why the property was not transferred to the Town of New Windsor. It was never declared unbuildable, it was proposed parkland area. Also, contrary to the pond always having been there, this is the original map, there was no pond in 1973, that may have been a manmade pond dug out to take care of horses, don't know, but it clearly was not a pond when the property was originally subdivided and again I'll leave this for the board. I have noticed a couple of people were concerned about septic flow going into the stream, I don't claim to be an engineer, I've gone to planning board meetings and talked with engineers since 1973, I can tell you the only time you have flow out of a septic field is if it's a failed septic and that's generally either an improperly designed or improperly installed system. If this board were to grant the variances that simply means that the applicant then has to go satisfy the town engineer, planning board engineer that the design is appropriate and then the building inspector will observe the installation, the engineer supervising installation has to provide a certification that it was installed according to plans. So it sounds threatening to say there's going to be septic flow going into streams but that's contrary to all of the design criteria that the engineers do

require. There was a comment about a septic field being located at the end of the outflow, I'm going to ask the engineer to identify where the outflow and the septic is because that's on the existing structure where proposed lot 1 is.

MR. FOTI: We have, the septic was designed by another office but it does meet all separations required by the state and county health departments for the culvert which is 50 feet so we met that and all existing other water features on site or there is none on site but off site also we met all separations.

MR. REINEKE: Now I haven't personally viewed the property, I'm not aware of standing water, I know your office has been, I don't know if you were out there yourself personally.

MR. FOTI: Yeah, I have been there, I was there last month, there was no standing water at that time.

MR. REINEKE: There was a reference in the northwest corner of the property that there was standing water that would be up in this general area I presume?

MR. FOTI: I didn't see any there when I was there.

MR. REINEKE: As you can see, on the existing, on the original subdivision map there was an existing stream shown basically down in the and flowing out down in the general area of where the underground piping now exists. If you look on that map, you'll see just below the curve of the road the stream running down towards the I guess would be the southeast corner and that's where the culverts now take that water that was on surface is now just being carried underground so contrary to the general comments the changes from the original subdivision are virtually minimal. The stream is placed underground, the apparently manmade pond was filled back in but there was no pond existing when this

subdivision was created or all those lots were created. Somebody said they didn't hear a generator running to do the well pump test, I can tell you that those tests are certified, they are filed with the Department of Environmental Conservation, filing of a false report is at best case a misdemeanor for the person doing it, worst case it's a felony, so they would be committing a crime if they were filing false reports with the department and that's a requirement for all wells. So those logs are certified by the driller and filed with the Department of Environmental Conservation. And I wouldn't hesitate if anybody feels that they could show that the testing weren't properly done, they should certainly report it to the DEC rather than just come to a board and say I didn't hear something so I guess they didn't do it. You have to rely on the certifications that are filed and they are filed under penalty of criminal prosecution if they're not filed accurately. Again, most of the issues seem to relate to a pond that didn't exist when the subdivision was created, was apparently dug out by man and filled in by man and our application is simply to allow the planning board to do the in-depth engineering review that they do on any subdivision application to make sure that the drainage works, that the septic works, you know, we have one existing well but I'm sure the planning board would want other information before they would move forward and signing off on any subdivision application. So we have shown with the earlier submissions these lots are still larger than virtually everything that was in there and we feel that the subdivision of those lots would still be in keeping with the property. What hasn't been mentioned by anybody is the fact that for about at least ten years based upon the age of some of the appliances that were pulled out of there this area was basically a dumping ground, there were multiple loads of discarded appliances and other junk that was just dropped off in the back portions of it. I don't know if there are any other questions that the board has, we'll try and address them.

MR. BABCOCK: Mr. Chairman, I have one thing, did you, were the perc tests witnessed by the town?

MR. FOTI: Not yet.

MR. BABCOCK: Okay, the planning board typically in this area in the west end of town where the septic and perc tests aren't so good it's been many years that they didn't require them to be witnessed. I would assume that they are probably going to make them redo them and be witnessed by the town engineer, I can almost guarantee that.

MR. FOTI: Our previous experience will require that.

MR. REINEKE: We wouldn't object to that being a condition either, it has to work, if it doesn't work there's no point in moving forward so if this was a condition of any relief from this board.

MR. BABCOCK: Typically, they wouldn't do the design at this point, they would do design at a later date with the planning board but since there was some issues with the septic systems and discussions they wanted to do this for the board. The other thing that I can tell you is that the well drilling rigs themselves have equipment on them that they can test wells for the capacity of the water, whether it be generators or whatever they may use but they're all self-equipped.

MR. KANE: Any questions, gentlemen?

MR. BEDETTI: I have a question. I think it was asked at one of our earlier meetings whether there's been given any consideration rather than it be a 3 lot subdivision perhaps something less, maybe a 2 lot subdivision and maybe some demonstration as to why that was not considered, why it was rejected.

MR. REINEKE: Basically, the reason for that is that if you split you'd have such oversized lots they'd be totally out of proportion with what's existing in the subdivision. One of things that you look for and one of our requirements with a variance is to show that it is in keeping with the general characteristics of the neighborhood. Our smallest lot is larger than 18 of the 24 lots in that subdivision, larger by close to a third larger already, that's the smallest one that we have proposed. The largest lot that we're proposing the 47,000 square foot lot is more than twice the size of 18 of the lots, it's larger by 10% than the next largest lot and our middle size lot is larger than all but I think two of the properties that are in this so rather than create an oversized lot where you either have an undersized house or a house that doesn't fit with the neighborhood we're requesting that the property be divided into three lots, all of which exceed most of the other existing lots in that subdivision.

MS. LOCEY: Mr. Chairman, I was curious myself and after I got the agenda e-mailed to me on Friday actually yesterday morning I was up there looking at the site and after the torrential rains on Saturday it was dry, I mean, didn't go off the site but to look at it it looked dry. I don't have a problem with that.

MR. KANE: Any other questions?

MR. DITTBRENNER: Mr. Chairman, I would also just add for the record I have also visited the site and I again did not walk the entire property but was there after a day of rain and I did not see any significant standing water on the property or runoff from the property, sitting in the car, did not walk the property, but did get out and see what it looked like.

MS. LOCEY: I walked the roadway in front of it, it's a nice flat lot and it looks like it would more or less

be consistent with the neighborhood as far as the size of the lots and correct me if I'm wrong, this is just to approve three lots of the sizes being requested and all of the other details, water, sewage or septic issues would then be addressed at the planning board?

MR. KANE: That's correct. Pat, any questions?

MR. TORPEY: No, I'm pretty good.

MR. KANE: I'll accept a motion.

MR. DITTBRENNER: I would move to approve the application for lots 1, 2 and 3 on the subdivision map provided by Ed Biagini as it relates to variances for gross minimum lot area, minimum lot area, minimum lot area minimum, lot width, front yard setback, side yard setback and total side yard setback for lot 1, gross minimum lot area, net minimum lot area, minimum lot width for lot 2 and gross minimum lot area, net minimum lot area for lot 3.

MS. LOCEY: I'll second that motion.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	NO
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

JOAN_THIELE_(08-31)

MR. KANE: Next is Joan Thiele, request for interpretation and/or use variance for single-family home with two kitchens at 552 Riley Road. Speak loud enough for this young lady to hear you.

MRS. THIELE: My name is Joan Thiele and I was before the board wit the preliminary hearing. It's my mother's house which was brought in 1971 and she bought it with a second kitchen. It was listed as a single-family home with a second kitchen on the tax rolls and she was paying taxes on that kitchen all along and so I'm here just to clarify the fact that it is a single family with a second kitchen, I'm not looking for a variance as a two-family home.

MR. KANE: Just an interpretation, one electric meter and gas meter coming into the home?

MRS. THIELE: Yes.

MR. KANE: Is there general access to the area from inside the home, unlocked?

MRS. THIELE: Well--

MR. KANE: For instance, it doesn't have a separate entrance and you've got to go through that entrance to get into there?

MRS. THIELE: You go through, through the main entrance or the garage.

MR. KANE: Through the house?

MRS. THIELE: Yes.

MR. KANE: And the home was purchased with a second kitchen and it's been used that way and will continue

to be used that way?

MRS. THIELE: Yes, single family.

MR. KRIEGER: It's a single-family house, always was a single-family house and always will be a single-family house?

MRS. THIELE: Yes.

MR. KRIEGER: When you sell it you'll market it as a single-family house?

MRS. THIELE: Yes.

MR. KANE: At this point, I will open it up to the public, ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and bring it back to Myra, how many mailings did we have?

MS. MASON: On the 14th of October, I mailed out 28 addressed envelopes and had no response.

MR. KANE: Any further questions from the board?

MS. LOCEY: On the notice of disapproval it talks about the minimum lot area permitted 120,000 square feet, that would be if it were considered a two family?

MR. BABCOCK: That's correct.

MS. LOCEY: So the only thing if the interpretation is that it's a single-family home with two kitchens, all of this is irrelevant?

MR. BABCOCK: That's correct.

MR. KANE: That's correct. Any other questions? I'll accept a motion.

MR. DITTBRENNER: Move to approve the application of Joan Thiele for an interpretation that as a second kitchen.

MR. KRIEGER: Notwithstanding the existence of two kitchens it's a single-family home.

MS. MASON: Single-family home with two kitchens.

MS. LOCEY: I'll second that motion.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

CAR_CARE_BY_C_&_N_(08-29)

MR. KANE: Car Care by C & N for a use variance to permit sale of used cars and request for variance for proposed addition for existing repair facility will exceed 30 percent expansion of the non-conforming use at 601 Little Britain Road in a PI zone.

Mr. Anthony Coppola appeared before the board for this proposal.

MR. COPPOLA: My name is A. J. Coppola, I'm the architect who's prepared the plans. We're here for a use and area variance for an expansion of the existing service garage for Car Care on Little Britain Road. I have the owner, Carlos Mira here who can answer any questions. I will give a brief overview of what we're doing, we'll talk about something we talked about at the last meeting as far as the pre-existing use of the sales of cars we'll give some evidence of that and then we can answer any questions. So basically this is an existing auto repair facility and also there's a single-family home on the front of this parcel. Exactly what we're doing is we're proposing an addition in the rear of this, the rear and adjacent to the existing one story block building so there would be this addition would be also block and basically the primary reasoning for this is a lot of these older garage bays that we deal with not only here but at other sites are undersized, they're too low and they're narrower and cars and vehicles are bigger and basically it's the reality that for Carlos to be able to continue to work on larger vehicles and maybe small and light duty trucks he needs a higher clear area and a slightly wider bay. So that's the primary purpose for that. So he has two existing garage bays, we're adding two garage bays and a small storage area and there's an existing a retail area with a small waiting room that will remain unchanged that's in the front of the existing facility here. So in the rear, I'm sorry, in

the side yard right now there's an existing 5 foot 7 inch setback, we're coming no closer than that, we're proposing basically a 12 foot 3 inches at the far end of our addition so that will be even though that's non-conforming that's greater than what's there. We have all the parking that we need, that's all shown, there's 18 parking spaces, there's handicapped spaces in the front where the retail area is and there's also we have designated 7 areas for auto sales. So I think for the area variance what we're asking for is a 30 percent increase to an existing non-conforming use. We're in the PI zone. So just briefly I'm going to pass this out. Last time we were here we talked about the auto sales being a pre-existing use and it was basically spoken that we should go back and try and document the previous owner that Carlos purchased the property from to document this, that person was indeed also doing car sales at that time. So just briefly read this letter, Carlos contacted her in the Town of New Windsor, here's the letter as you requested to Mr. Carlos Mira, Bella Legas (phonetic) was a previous owner of 601 Little Britain Road, New Windsor, New York 12553 who worked and operated an auto repair shop and sometimes sold a few vehicles during the time that she was owner. So we hope that this documents that that will show the condition that Carlos purchased the property from and basically he just wants to continue that pre-existing use which is kind of an auxiliary or an auxiliary use to the primary use of the repair.

MR. KANE: Carlos, when did you purchase the property from Bella.

MR. MIRA: It's going to be about five years.

MR. KANE: Do you know about how long she was in business or he was in business there?

MR. MIRA: That I was in business?

MR. KANE: No, they were?

MR. MIRA: I think about 30 years.

MS. LOCEY: Long time.

MR. BABCOCK: Mr. Chairman, I think the issue is that I can vouch that for many years the gentleman before him had cars there for sale, they have sold cars forever. The problem is is that every piece of paper only deals with the buildings, so the building's called a shop, they call that the house, they call it the deck for the house, they never call out anything about car sales because it's not within a building, it's outside. The issue is is to make it legal. This gentleman will at some point in time require a letter, motor vehicle will require a letter from us saying that he's allowed to do it there. Back when the gentleman before him that didn't happen so today everything has to be made sure that it's clear that it says he can have car sales there and that's really what we got to talk about.

MR. MIRA: The motor vehicles when I got the place I notified them so I misunderstood one of the C.O.s and they gave me the right, they gave me the license for auto sales.

MR. KANE: Okay, you can continue.

MR. COPPOLA: That's basically it.

MR. KANE: I will ask at this point if there's anybody in the audience for this particular hearing? Seeing none, I will close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On October 14, I mailed out 10 addressed envelopes and had no response.

MR. KANE: Any further questions from the board?

MR. TORPEY: No.

MS. LOCEY: No.

MR. KANE: Any easements running through where you had the proposed service garage?

MR. COPPOLA: There's an easement on the property, correct, but not in the area of the garage that's shown on the drawings, a 40 foot wide easement in the upper left-hand corner of the drawing but it's not through--

MR. KANE: Not through where the proposed building is going to be. Cutting down substantial vegetation or trees in the building of the service garage?

MR. COPPOLA: No.

MR. KANE: Creating water hazards or runoffs?

MR. COPPOLA: No.

MR. KANE: Any further questions? If not, I'll accept a motion.

MR. TORPEY: I'll make a motion that we grant Car Care by C & N's request for a use variance for a permit sale of used cars, a request for a variance for proposed addition for existing repair facility which exceeds 30 percent expansion of the non-conforming use at 601 Little Britain Road in a PI zone.

MR. DITTBRENNER: I'll second it.

MS. LOCEY: Clarification, Pat, I think instead of a use variance to interpret that--

MR. KRIEGER: It's a pre-existing, non-conforming use.

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MS. LOCEY: So a use variance is not necessary.

MR. TORPEY: So noted.

MS. MASON: So we have a motion and a--

MS. LOCEY: I'll second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

RICHARD_JULIAN_(08-30)

MR. KANE: Tonight's last public hearing is Richard Julian request for 8.4 foot rear yard setback for proposed 20 x 20 addition at 58 Hudson Drive in an R-4 zone.

MR. JULIAN: Richard Julian, 58 Hudson Drive, New Windsor, New York.

MR. KANE: Tell us what you want to do, Richard, same as the preliminary.

MR. JULIAN: It's a 20 x 20 addition, it's pretty much it.

MS. LOCEY: That was quick. If I remember correctly from the preliminary meeting your proposed addition is going to replace your existing deck?

MR. JULIAN: Yes.

MR. TORPEY: Are you taking down any decks and trees?

MR. JULIAN: no.

MR. KANE: So you're going to be replacing, still got to ask, you're not going to be creating any water hazards or runoffs?

MR. JULIAN: No.

MR. KANE: Cutting down any trees, substantial vegetation?

MR. JULIAN: No.

MR. KANE: No easements running through?

MR. JULIAN: No.

MR. KANE: With the addition onto the home, it's going to keep the home in similar size and nature to other homes that are in your neighborhood, not changing the character of the neighborhood?

MR. JULIAN: No.

MR. KANE: I will ask if there's anybody in the audience for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On the 14th of October, I mailed out 45 addressed envelopes and had no response.

MR. KANE: Further questions from the board? I'll accept a motion.

MR. TORPEY: I will make a motion that we grant Richard Julian's request for a 20 x 20 addition at 58 Hudson Drive in an R-4 zone.

MR. KANE: Request for 8.4 foot rear yard setback for proposed 20 x 20 addition.

MR. DITTBRENNER: I'll second the modified motion.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: We have one meeting in November, November 17. Motion to adjourn.

MR. DITTBRENNER: So moved.

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MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer
11/6/08

